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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,960	10/17/2003	John C. Stankus	2202-031542	9884

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EXAMINER

SINGH, SUNIL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,960

Applicant(s)

STANKUS ET AL.

Examiner

Sunil Singh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-17, 19, 20 and 23 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 18, 21 and 22 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Upon further consideration, the subject matter indicated allowable in the previous office action mailed 2/15/05 has been withdrawn. The following rejections now apply.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,5-6,8-11, 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamm (US 949535).

Hamm discloses a yieldable prop having a first end and a second end (1,23) comprising a first hollow conduit (5), a second conduit (21), a clamp assembly ((6,7,8), this is considered as a clamp since the protruding portion close to where member (7) is pointing prevents member (21) to move laterally with respect to member (5), thus functioning as a clamp), a ring (14,18,19,20), the clamp assembly (6,7,8) is between the ring (14,18-20) and the first conduit (5), at least one handle (11) connected to the ring and the first conduit. (Re claims 5,6), the jack interface is considered as the vertical portion of member (23). (Re claims 8,9) bearing plates (1,23). (Re claim 10), the first and second conduits overlap. (Re claim 11), member (6) is compressible. (Re claim 23), the protruding portion of the clamp (6,7,8) close to where member (7) is pointing prevents member 21 from laterally moving into member (5), thus meeting the limitation "limit the movement of the second conduit into the first conduit".

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3. Claims 1,2,5-6,8-11,16-17, 19-20,23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hinselmann et al. (US 2192079).

Hinselmann discloses a yieldable prop having a first end and a second end comprising a first hollow conduit (a), a second conduit (b,r) slidably received in the first hollow conduit, a clamp assembly (c, n,n') positioned adjacent to the first hollow conduit, a ring (c') received around the second conduit, the clamp assembly is between the ring (c') and the first conduit (a), and at least one handle (u) connected to the ring and the first conduit (see Figures 1-2, 5-6). The clamp comprises a housing (c,n) and a wedge (n') (Re claims 5,6), this is considered as the bottom surface and top surface of the end plates of members (b) and (a) respectively as shown in Figure 1. (Re claims 8,9), this is considered as the end plates of members (b) and (a) respectively as shown in Figure 1. (Re claim 10), the first and second conduits overlap. (Re claim 11), member (c) is compressible. (Re claim 23), clamp (c,n,n') prevents members (b,r) from moving into member (a), thus meeting the limitation "limit the movement of the second conduit into the first conduit".

4. Claims 1,5-11,23 are rejected under 35 U.S.C. 102(b) as being anticipated by Powell (US 3089742).

Powell discloses a yieldable prop having a first end and a second end comprising a first hollow conduit (10), a second conduit (16) slidably received in the first hollow conduit, a clamp assembly ((23) prevents member (16) to move laterally with respect to member (10) thus functioning as a clamp) positioned adjacent the first conduit, a ring (33) received around the second conduit, the clamp is between the ring (33) and the first

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conduit (10), ring tie (35) and at least one handle (27,29) connected (39) to the ring (33) and the first conduit (see Figures 1-4). (Re claims 5,6), this is considered as the bottom surface and top surface of the end plates (17,11) respectively. (Re claims 8,9) bearing plates (11,17). (Re claim 10), the first and second conduits overlap. (Re claim 11), member (23) is compressible. (Re claim 23), clamp (23) prevents members (16) from moving into member (10), thus meeting the limitation "limit the movement of the second conduit into the first conduit".

5. Claims 1, 5-6, 8-11, 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (US 3870278).

Lee discloses a yieldable prop having a first end and a second end comprising a first hollow conduit (12), a second conduit (23,21) slidably received in the first hollow conduit, a clamp assembly (16,17) positioned adjacent to the first hollow conduit, a ring (45) received around the second conduit, the clamp assembly is between the ring (45) and the first conduit (12), and at least one handle (37) connected to the ring and the first conduit. (Re claims 5,6), this is considered as the bottom surface and top surface of members (28) and (11) respectively as shown in Figure 1. (Re claims 8,9), this is considered as end plates (28) and (11) respectively as shown in Figure 1. (Re claim 10), the first and second conduits overlap. (Re claim 11), member (16) is compressible. (Re claim 23), clamp (16,17) prevents members (21,23) from moving into member (12), thus meeting the limitation "limit the movement of the second conduit into the first conduit".

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamm in view of Jakoubek et al. (US 2068491)

Hamm discloses the invention substantially as claimed. However, Hamm lacks a visual indicator. Jakoubek et al. teaches visual indicator (30). It would have been considered obvious to one of ordinary skill in the art to modify the Hamm to include visual indicator as taught by Jakoubek et al. to prevent overextending the second conduit.

8. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hinselmann et al. in view of Jakoubek et al. (US 2068491).

Hinselmann et al. discloses the invention substantially as claimed. However, Hinselmann et al. lacks a tension indicator. Jakoubek et al. teaches a tension indicator (see Fig. 3) It would have been considered obvious to one of ordinary skill in the art to modify Hinselmann et al. by including a tension indicator as taught by Jakoubek et al. since this allows the user to know that the telescoping member is at it fullest extension point as well as prevent separation between the telescoping members.

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9. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powell in view of Jakoubek et al. (US 2068491)

Powell discloses the invention substantially as claimed. However, Powell lacks a visual indicator. Jakoubek et al. teaches visual indicator (30). It would have been considered obvious to one of ordinary skill in the art to modify the Powell to include visual indicator as taught by Jakoubek et al. to prevent overextending the second conduit.

10. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Jakoubek et al. (US 2068491).

Lee discloses the invention substantially as claimed. However, Lee lacks a tension indicator. Jakoubek et al. teaches a tension indicator (see Fig. 3). It would have been considered obvious to one of ordinary skill in the art to modify Lee by including a tension indicator as taught by Jakoubek et al. since this allows the user to know that the telescoping member is at its fullest extension point as well as prevent separation between the telescoping members.

11. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamm.

Hamm discloses the invention substantially as claimed. However, Hamm is silent about the jacking means. The jacking means called for in claims 14 and 15 are old and well known in the art. It would have been considered obvious to one of ordinary skill in the art to modify Hamm to include one of the jacking means as called for in either claims 14 or 15 which is well known and old in the art to provide the means for extending member (21) of the Hamm reference thus adjusting the height of the prop.

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12. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hinselmann et al..

Hinselmann et al. discloses the invention substantially as claimed. However, Hinselmann et al. is silent about the jacking means. The jacking means called for in claims 14 and 15 are old and well known in the art. It would have been considered obvious to one of ordinary skill in the art to modify Hinselmann et al. to include one of the jacking means as called for in either claims 14 or 15 which is well known and old in the art to provide the means for extending member (b,r) of the Hinselmann et al. reference thus adjusting the height of the prop.

13. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powell.

Powell discloses the invention substantially as claimed. However, Powell is silent about the jacking means. The jacking means called for in claims 14 and 15 are old and well known in the art. It would have been considered obvious to one of ordinary skill in the art to modify Powell to include one of the jacking means as called for in either claims 14 or 15 which is well known and old in the art to provide the means for extending member (16) of the Powell reference thus adjusting the height of the prop.

Response to Arguments

14. Applicant's arguments with respect to claims 1, 2 and 7 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

15. Claims 3,4,18,21-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (571) 272-7051. The examiner can normally be reached on Monday through Friday 10:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunil Singh
Primary Examiner
Art Unit 3673



SS 7/15/05

